

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6993

Petition of Northern New England Gas)
Corporation, as agent for Capital Infragaz L.P.,)
a Québec limited partnership, Capital d'Amérique)
CDPQ Inc., a Québec corporation serving as the)
general partner of Capital Infragaz L.P., and)
Caisse de dépôt et placement du Québec, for)
approval of their indirect acquisition of a)
controlling interest in Vermont Gas Systems, Inc.)

Order entered: 8/31/2004

I. INTRODUCTION AND PROCEDURAL HISTORY

By petition filed on July 9, 2004, Northern New England Gas Corporation ("NNEG"), as agent for Capital Infragaz L.P., a Québec limited partnership ("CILP"), Capital d'Amérique CDPQ Inc., a Québec corporation organized to serve as the general partner of CILP ("CDA"), and Caisse de dépôt et placement du Québec ("Caisse") which holds all of the outstanding voting securities of CDA, filed a petition and the supporting testimony of A. Donald Gilbert, Jr., seeking the Vermont Public Service Board's ("Board") approval, under Section 107 of Title 30, Vermont Statutes Annotated, of the indirect acquisition by CILP, CDA and Caisse of a controlling interest in Vermont Gas Systems, Inc. ("VGS"), a Vermont corporation engaged in the transmission and distribution of natural gas in Vermont that is a wholly-owned subsidiary of NNEG.

Under Section 107, a company that seeks to acquire, directly or indirectly, a controlling interest—10% or more of the outstanding voting securities of a company subject to the Board's jurisdiction—must first obtain approval from the Board, after notice of the petition's receipt and of the opportunity for a hearing thereon. To approve the acquisition, the Board must find that it will promote the public good. 30 V.S.A. § 107(a), (b). Following its review of NNEG's petition and prefiled testimony, by letter, dated August 20, 2002, the Department of Public Service (the "Department") notified the Board that it had reviewed NNEG's petition and prefiled testimony and recommended that the petition be approved without hearing or further investigation. Ltr. from Dept. counsel (Aug. 20, 2004).

By letter dated August 20, 2004, NNEG submitted a draft Proposal for Decision, the adoption of which is supported by the Department. Both NNEG and the Department have waived service of the Proposal for Decision on them if the Hearing Officer recommends and the Board adopts a Proposal for Decision that is substantively identical to the Proposal for Decision submitted by NNEG. Ltr. from NNEG counsel (Aug. 20, 2004). The Board has appointed me as Hearing Officer to review NNEG's petition.

Based on the Department's letter, my own review of NNEG's petition and the lack of any request for hearing, I recommend that the Board adopt the findings of fact and conclusions of law that follow and issue an order approving the indirect acquisition of a controlling interest in VGS by CILP, CDA and Caisse.

II. FINDINGS OF FACT

1. NNEG is a corporation duly organized and existing under the laws of the State of Vermont. Pet. at ¶ 1.

2. It owns all of the issued and outstanding stock of VGS, a Vermont corporation engaged in the transmission and distribution of natural gas in Vermont. *Id.* at ¶ 2.

3. Gaz Métro Limited Partnership ("GMLP") owns all of the issued and outstanding stock of NNEG. *Id.* at ¶ 3.

4. Gaz Métro Inc. ("Gmi") owns 74.7% and, through the ownership of 100% of Gaz Métropolitain Plus Inc., an additional 0.006% of the general-partner interests of GMLP, with the remaining 25.3% interest held in the form of limited-partnership units issued to the public in Canada by GMLP. *Id.* at ¶ 4.

5. Noverco, Inc. ("Noverco") owns all of the issued and outstanding stock of Gmi. *Id.* at ¶ 5.

6. Noverco was previously owned by five shareholders, including HQ Energie Inc. ("HQ," holding 41.22% of Noverco's voting securities), IPL Energy Inc., a subsidiary of Enbridge Inc. (holding 32.06%), Laurentides Investissements, S.A., a subsidiary of Gaz de France and an indirect subsidiary of the Republic of France (holding 17.56%), National Bank Financial Inc. (holding 8.4%, which interest was subject to a purchase option held by HQ (the "NBF Option"), and Caisse (holding 0.76%, which interest was also subject to a purchase option held by HQ (the

"Caisse Option")). *Id.* at ¶ 6.

7. On June 30, 2004, Caisse acquired all of the shares of Noverco's stock held by HQ plus the NBF Option and the Caisse Option such that, by exercise of the NBF Option and the extinction of the Caisse Option, Caisse then held 50.38% of the issued and outstanding voting securities of Noverco. *Id.* at ¶ 7.

8. On the same day, Caisse organized CILP and transferred the shares of Noverco so acquired (including the share already owned by Caisse) to CILP in consideration of interests in CILP acquired by Caisse and CDA and receipt of the proceeds of investments made by several institutional investors that have also acquired interests in CILP as limited partners. *Id.* at ¶ 8.

9. After these transactions, the ownership of NNEG, GMLP, and GMi are unchanged, and the ownership of Noverco is:

50.38% CILP;
32.06% IPL; and
17.56% Laurentides.

Gilbert pf. at 3.

- CILP is a single-purpose entity established to hold the Noverco shares acquired by Caisse from HQ and NBF and the Noverco share already held by Caisse; Caisse is using this entity to allow it to bring in other, limited partners to finance approximately one half of the transaction. *Id.* at 3-4; ltr. of NNEG, August 24, 2004.

- CDA is CILP's sole general partner, CDA therefore controls CILP, and Caisse owns CDA. Gilbert pf. at 4.

- Caisse is a crown corporation owned by the Government of Québec that manages and invests pension, insurance and other funds for public-sector employees in Québec. *Id.*

- Neither VGS nor NNEG plan any changes in VGS' operations as a result of the acquisitions, and VGS will continue to operate as a stand-alone, local-distribution company with Vermont-based management. *Id.*

- The acquisitions do not require any federal approvals. *Id.*

- There will be no changes to VGS' services resulting from the acquisitions; for example, the proposed transaction will have no impact on VGS' emergency services, and VGS will continue to provide its customers with 24-hour, emergency-response service. *Id.*

- The Board will continue to have jurisdiction over the terms and conditions of VGS' regulated-service offerings and therefore through regulation can ensure that the terms and conditions of service are and remain just and reasonable. *Id.* at 4-5.

- Acquisition of indirect control in VGS by CILP, CDA and Caisse should have no impact upon VGS' quality of service. *Id.*

- Acquisition of indirect control in VGS by CILP, CDA and Caisse will have no impact on the quality of VGS' facilities: VGS will continue to have 100% responsibility for maintaining its transmission and distribution system. *Id.* at 5.

- The transaction will have no impact on the physical configuration of VGS' system: VGS will continue to have a single point of interconnection with the TransCanada Pipelines (or "TCPL") system and responsibility for coordinating its system with TCPL's. *Id.*

- VGS will continue to manage its imports from the TCPL system so as to meet TCPL's tariffed operating conditions. *Id.*

- Caisse is an experienced investor and can reasonably be expected to strengthen the finances of the Noverco group, *i.e.*, IPL, Laurentides and CILP. *Id.* at 5.

- Caisse has no interest in other natural-gas companies operating in Canada or the United States. *Id.* at 7.

- Three institutional investors will become limited partners of CILP:

- **SNC-Lavalin, Inc., a Québec-based engineering and construction firm that operates in 100 countries worldwide, which will acquire an 11.1% interest;**

- **Two investment trusts controlled by British Columbia Investment Management Corporation, an investment manager that administers investments of approximately \$63 billion (Canadian), which will acquire an 11.11% interest; and**

- **Régime de rentes du Mouvement Desjardins, a Québec-based pension fund that is Canada's sixth largest financial institution, managing assets of \$3.447 billion (Canadian) as of December 31, 2003, which will acquire an 8.33% interest.**

On July 14, 2004, Fonds de solidarité des travailleurs du Québec, a Québec investment fund, became a limited partner of CILP by acquiring from Caisse a 16.66% interest. *Id.* at 6; ltr. of NNEG counsel (August 24, 2004); exh. NNEG-4 (revised).

- The Noverco group will continue to be strong financially and, through the inclusion of Caisse as a major investor (through CDA and CILP), have access to significant financial expertise. Gilbert pf. at 6.

- VGS has a long-standing commitment to inform the Board and Department of all affiliated transactions, and VGS does not anticipate procuring any services or products from CILP, CDA or Caisse. Gilbert pf. at 7.

- The natural-gas market "upstream" of VGS is completely deregulated and highly competitive, VGS purchases its natural gas at market-based prices, and no one player in this market can unduly influence prices. *Id.*

- VGS transports the gas it purchases over an "open access" pipeline, with service terms and conditions regulated by Canada's National Energy Board. *Id.*

- CILP, CDA and Caisse, and other Caisse subsidiaries or affiliates, cannot position themselves to obstruct or impair the price of natural gas to VGS. *Id.*

- CILP's, CDA's and Caisse's indirect control of VGS will have no direct effect on VGS' operations, as it will continue to provide service under terms and conditions approved by and under the jurisdiction of the Board and will continue to be managed and operated locally. Findings 1-29, above.

- The change will bring an indirect benefit to VGS through an ownership structure for its indirect parent, Noverco, that continues to be financially sound, makes long-term-focused investments and has solid experience operating natural-gas companies through its investment in GMLP (and through GMLP, in NNEG and VGS). Gilbert pf. at 7-8.

- CILP's, CDA's and Caisse's acquisition, indirectly, of a controlling interest in VGS will promote the public good. Findings 1-30, above.

Pursuant to 30 V.S.A. § 8, I am submitting my findings and conclusions to the Board for adoption. The parties have waived service of this Proposal for Decision on them, pursuant to 3 V.S.A. § 811.

DATED at Montpelier, Vermont, this 31st day of August, 2004.

s/David Farnsworth
David Farnsworth, Esq.
Hearing Officer

III. ORDER

